

**Ecclesiastical Maintenance Services, Inc. and Local  
74, Service Employees International Union,  
AFL-CIO. Case AO-331**

December 18, 1995

**ADVISORY OPINION**

BY CHAIRMAN GOULD AND MEMBERS BROWNING  
AND TRUESDALE

Pursuant to Sections 102.98(a) and 102.99 of the National Labor Relations Board's Rules and Regulations, on November 29, 1995, Ecclesiastical Maintenance Services, Inc. (the Employer), filed a Petition for Advisory Opinion as to whether the Board would assert jurisdiction over its operations on the basis of its current standards. In pertinent part, the petition alleges as follows:

1. A proceeding, Cases SU-58822 and SU-58851, is currently pending before the New York State Employment Relations Board (NYSERB) in which the Union alleges that the Employer has engaged in unfair labor practices within the meaning of Section 704 of the New York State Employment Relations Act.

2. The Employer is a nonprofit corporation formed by the Roman Catholic Archdiocese of New York under the Membership Corporation Law of the State of New York. It provides cleaning and maintenance services on a contract fee basis for churches, schools, seminaries, and other facilities in the Archdiocese of New York. The Employer performs no other work than cleaning and maintenance services and performs such services only for the facilities in the Archdiocese of New York.

3. During its most recent fiscal year, the Employer had gross revenues in excess of \$3.5 million, and purchased materials valued in excess of \$50,000 directly from outside the State of New York.

4. The foregoing commerce data is contained in a "Stipulated Record on The Threshold Issue of Jurisdiction" filed by the Employer and the Union with NYSERB in connection with the matter pending before

that agency.<sup>1</sup> The NYSERB has made no finding with respect to the commerce data.

5. There are no representation or unfair labor practice proceedings involving the Employer pending before the Board.

On December 5, 1995, the Union filed a response to the petition for advisory opinion. The Union does not dispute the Employer's commerce data, but asserts that the Employer is a religious affiliated entity and that there is a question as to whether the Board would assert jurisdiction under the principles set forth in *Riverside Church*, 309 NLRB 806 (1992).

On December 8, 1995, the Employer filed a brief in support of its petition for advisory opinion. The Employer asserts that it is within the Board's jurisdiction and that the Union has acknowledged NLRA jurisdiction over it in ancillary Federal court litigation.

Having duly considered the matter,<sup>2</sup> we are of the opinion that, inasmuch as the Employer has gross annual revenue in excess of \$1 million and direct inflow in excess of \$50,000, the Employer would satisfy any of the Board's monetary jurisdictional standards. We are unable in this proceeding, however, to resolve the religious-affiliation jurisdictional issue addressed by the parties. As indicated in the Union's response, that issue is not appropriate for resolution in this proceeding; the Board's advisory opinion proceedings under Section 102.98(a) are designed primarily to determine whether an employer's operations meet the Board's commerce jurisdictional standards. Thus, while we are able to advise the Employer that it meets the Board's monetary standards for asserting jurisdiction, we are unable in this proceeding to resolve the remaining issues addressed by parties.<sup>3</sup>

<sup>1</sup>The stipulated record does not assert the direct inflow facts. Those facts, however, are contained in the petition filed in this matter, and are not disputed by the Union.

<sup>2</sup>The Board has delegated its authority in this proceeding to a three-member panel.

<sup>3</sup>See *Grace Church in the City of New York*, 317 NLRB 961 fn. 1 (1995). See also *Fifth Avenue Assn.*, 319 NLRB 383 (1995), and cases cited therein.